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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,803	03/23/2004	Keisuke Koga	10873.1427US01	2904
7590 06/14/2006			EXAMINER	
Hamre, Schumann, Mueller & Larson, P.C. P.O. Box 2902-0902 Minneapolis, MN 55402			PATEL, ASHOK	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

20

Office Action Summary	Application No. 10/806,803	Applicant(s) KOGA ET AL.	
	Examiner Ashok Patel	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2879

1. Applicant's arguments filed 03/31/2006 have been fully considered but they are not persuasive.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 14 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Jones (US 5869169).

As to claims 1, 5, 7 and 8, Jones discloses a field emission source (Figure 3) including: a silicon substrate (not shown in Figure; bottom plate), a insulating layer (element shown between reference numerals 52 and 62) with plurality of openings (60), cone shaped cathodes (figures 1 and 2; cone shaped cathode to be arrayed on the substrate), a lead electrode (62), and a surface modifying layer (16, Si-C or Mo-C; col. 3, lines 57-62)) on the surface of the cathodes.

As to claims, 2 and 6, Jones disclose the cathode made of Si or Mo (see abstract; col. 3, lines 57-62)

As to claims 1, 3, 4, 14 and 15, the limitation of a chemical bond is met by Jones having the surface-modifying layer of Si-C (16) or Mo-C.

Art Unit: 2879

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 5869169) and common knowledge in the art as evidenced by Alig (US 4178531).

Jones teaches all the limitations of claim 12 and 13 including an image display apparatus (display assembly: line 13 of column 1) that inherently has elements such as electron gun, deflector, and phosphor layer in a vacuum container in which field emission sources are utilized. These elements must be present in a display apparatus in order to make a complete viewable display device. Note, Jones has recited phosphor layer (66) in order for image to be produced and field emission is

Art Unit: 2879

produced/obtained and directed/deflected by deflector to desired phosphor pixels in a vacuumed environment.

Alternatively, providing of Jone's field emission sources in an image display apparatus having above elements is notoriously known in the art in order to have complete operating display device as evidenced by Alig.

Additionally, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. A recitation of the intended use of claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it means the claim, *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

6. The Examiner responds to applicant's arguments, filed on 03/31/2006, as follows.

Applicants argue that Jones does not disclose formation of a chemical bond. This is not found persuasive, since the emitter material is evaporated, and then preferably oxidized (col. 3,

line 55 col. 4, line 13). In view of this, the Examiner therefore takes the position that the emitter material is chemically bonded to the base material in Jones device.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zhang et al, Chalamala et al and Urayama et al each are cited for showing general structure of a field emission electron source.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2879

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ashok Patel
Primary Examiner
Art Unit 2879